

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item # 10

AGENDA ID # 14565

ENERGY DIVISION

RESOLUTION G-3512 (Rev. 1)

January 28, 2016

R E S O L U T I O N

Resolution G-3512. Pacific Gas and Electric Company (PG&E) seeks approval of its plan for dispensing the \$400 million disallowance the utility was assessed in Decision 15-04-024 to its gas customers.

PROPOSED OUTCOME:

- D.15-04-024 is clarified to direct PG&E to allocate the \$400 million disallowance adopted in D.15-04-024 among core, noncore and wholesale customer classes using the monthly average gas consumption for these customers associated with their December 2015 and January 2016 billing cycles. Noncore customers' share of the disallowance is to be allocated among individual customers using their average annual gas consumption associated with their February 2015 through January 2016 billing cycles. The share of the disallowance for individual core and wholesale customers is to be allocated using their average gas consumption associated with their December 2015 and January 2016 billing cycles. PG&E is authorized to issue checks in lieu of a bill credit for its noncore customers and the customers of Core Transport Agents, if the apportioned amount is over \$30, in order to avoid billing complications. PG&E shall file a Supplemental Advice Letter to revise its Bill Credit Plan to reflect these changes.

SAFETY CONSIDERATIONS:

- There is no impact on safety.

ESTIMATED COST:

- PG&E gas customers will receive either a bill credit or a check for their allotment of the \$400 million disallowance.

By PG&E Advice Letter (AL) 3597-G filed on May 21, 2015 and AL 3597-G-A filed on June 26, 2015.

SUMMARY

This Resolution implements the \$400 million disallowance ordered in Decision (D.) 15-04-024.¹ The disallowance was ordered as part of various fines and remedies imposed in connection with several formal Commission investigations into the utility's gas operations that were opened in response to the September 9, 2010 San Bruno transmission pipeline explosion.² PG&E is instructed to file a Tier 1 Supplemental AL with a new Bill Credit Plan (Plan) to implement the requirements of this Resolution.

Pursuant to Rule 1.3 of General Order 96-B, and based upon the comments received from various parties, the resolution modifies the methodology D. 15-04-024 adopted for allocating and distributing the \$400 million disallowance to better align the procedures with the objectives of D.15-04-024. The revisions are made to ensure the "just, speedy, and inexpensive handling" of this Advice Letter filing.³

The \$400 million refund shall be implemented as follows:

1. PG&E shall calculate the monthly average gas throughput for core, wholesale and non-core customers using their December 2015 and January 2016 billing cycles and allocate the refund between core, wholesale and non-core customer classes in the ratio of this monthly throughput.

¹ D.15-04-024 at 85. This adopted disallowance was to be in form of a bill credit to PG&E's ratepayers.

² These investigations were: Order Instituting Investigation (I.) 12-01-007, I.11-02-016 and I.11-11-009.

³ G.O. 96-B is available at:
http://docs.cpuc.ca.gov/PUBLISHED/GENERAL_ORDER/164747.htm

2. Core customer and wholesale class's share of the refund will be distributed to individual customers based on their monthly average consumption for the December 2015 and January 2016 billing cycle period.
3. Noncore customer class's share will be distributed among individual customers using their average annual throughput associated with their February 2015 through January 2016 billing cycles.
4. Core and wholesale customers shall be provided a bill credit while noncore customers shall be issued a check. Customers of Core Transport Agents shall receive a check if their allocated share is more than \$30.
5. PG&E is not eligible to receive any portion of the \$400 million disallowance including gas usage associated with their own electric generation facilities.
6. The checks and bill credits are to be issued no later than the period of PG&E's June 2016 billing cycle.

BACKGROUND

In D.15-04-024, the Commission levied a fine and imposed remedies on PG&E for violations in connection with the operation of its gas transmission pipelines, including the September 9, 2010 San Bruno gas pipeline explosion. Among the equitable remedies adopted, PG&E was ordered to issue one-time bill credits totaling \$400 million to all of its gas customers.

D.15-04-024 specified the methodology for PG&E to use for disbursing the \$400 million disallowance to its gas customers. The utility was ordered to calculate a bill credit for each customer using a uniform cents-per-therm methodology based upon total actual billed gas throughput during the November and December 2015 billing cycles. The bill credit was to be applied to PG&E's gas customers' February 2016 bills unless an extension is granted as provided for in the Decision. These procedures reflected our preference for a simple and clear mechanism that can be implemented as soon as possible.⁴

⁴ D.15-04-024 at pp. 224-5.

In order to implement the bill credit, PG&E was ordered to file an AL which was to include proposed customer bill language and a mechanism to inform master meter customers at mobile home parks and other residential complexes of their obligation to pass the bill credit on to their submetered customers consistent with Public Utilities (P.U.) Code section 739.5(b).⁵

In AL 3597-G, PG&E filed its Plan showing how it intends to implement the \$400 million one-time bill credit ordered by D.15-04-024. In the AL, the utility requested a one-month extension to March 2016 for issuing the credit to its customers.

In the Plan to implement the disallowance, PG&E provided an illustrative example of how the uniform cents-per-therm factor would be calculated using November and December 2014 gas throughput which was then used to determine an illustrative amount of the credit that each customer in the various customer classes would receive.⁶ PG&E noted how differences in customer billing cycles would affect the credit calculation.⁷ Included in the AL was a sample letter the utility would distribute to its master meter customers containing instructions on how submetered customers should receive their bill credit.

⁵ D.15-04-024 Ordering Paragraph #5.

⁶ A customer eligible to receive a credit is a PG&E natural gas end-use customer who has usage billed in November and/or December 2015 billing cycles and who has an open account during the March 2016 billing cycle. (PG&E AL 3597-G Attachment 1 at p.2)

⁷ PG&E noted that core customers are not billed on a uniform calendar basis and that usage incorporated into the credit rate will be a two-month period ranging from early October to late December as core bills issued in November and December variously covers those periods. Noncore customers November and December billing cycles would mean using October and November calendar month usage for calculating the bill credit rate. (PG&E AL 3597-G Attachment 1 at p. 2)

Other elements of PG&E's Plan included the provision of checks to its noncore customers rather than the use of a bill credit, exclusion of the utility's interdepartmental gas usage from qualifying for a bill credit, and the utility's pledge that it would not seek recovery of the \$400 million disallowance through any regulatory mechanism nor would it have any bearing on its user taxes or franchise fee payments. Also, a contingency amount of 1% of the \$400 million bill credit (\$4 million) would be temporarily set aside to address any customer disputes after the credit is issued. PG&E's proposal for issuing checks to its noncore customers was made because the bill credit was likely to exceed the amount of a noncore customer's monthly PG&E bill, which includes the utility's gas transportation charges but not gas procurement costs.⁸

To implement the Plan and make the necessary billing system modifications, PG&E requested, pursuant to D.15-04-024 Ordering Paragraph #4 b, that the bill credit be provided to its customers in March 2016 rather than February 2016.

After protests were submitted on AL 3597-G, PG&E filed Supplemental AL 3597-G-A which contained two revised versions of the Plan. One Plan contained relatively minor changes while the other Plan reflected more significant modifications in response to the AL 3597-G protests.

The first version of the revised Plan consisted of two slight modifications of the Plan that PG&E filed in AL 3597-G. One change was an explanation of how PG&E would inform the Commission of the disposition of the \$4 million contingency set aside to address any disputes if it is not fully utilized. The other change was that the utility would specify that the bill credit would be identified on customers' bills as the "CPUC Mandated Gas Credit."

The second version of the revised Plan contained the two changes noted above and, a new method for allocating and distributing the \$400 million bill credit to

⁸ Noncore customers procure their own gas from non-utility sources and are billed separately by their gas supplier for the gas they purchase. PG&E bills noncore customers for the transportation of the gas that the customer procured.

its gas customers in response to the AL 3597-G protests.⁹ PG&E proposed the alternate allocation procedure to address concerns raised by protestants with low or non-existent winter gas usage in relation to the rest of the year. Rather than use November and December 2015 billing cycles to allocate the \$400 million disallowance, PG&E provided an alternative proposal using the total gas throughput billed over a 12 month period (July 2014 through June 2015). According to PG&E's analysis in the Supplemental AL, the proposed allocation method would result in a reduced bill credit for core customers. In response to the Core Transport Aggregators' (CTA) protest that billing problems may arise if a bill credit is used, PG&E proposed to issue checks to the customers of CTAs if a customer's allotted credit is \$30 or more. The provision of checks instead of bill credits is similar to the procedure PG&E proposed for its noncore customers in AL 3597-G.¹⁰

NOTICE

Notice of AL 3597-G and 3597-G-A was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter and Supplemental Advice Letter was mailed and distributed in accordance with Section IV of General Order 96-B. The advice letters were sent to parties on the service list attached to the advice letters and on the service lists for Application (A.) 13-12-012, Investigation (I.) 12-01-007, I.11-02-016, I.11-11-009, A.12-11-009, I.13-03-007, and Rulemaking 11-02-019.

⁹ An eligible customer is a PG&E natural gas end-use customer who has usage during the July 2014 through June 2015 period and who has an open account during the March 2016 billing cycle. (PG&E AL 3597-G-A Attachment 1B at p. 2)

¹⁰ Under PG&E's proposal, each customer taking bundled service from the utility would be issued a one-time bill credit. (PG&E Supplemental AL 3597-G-A Attachment 1B at p. 2.)

PROTESTS

Protests and responses to PG&E AL 3597-G were submitted by the following entities.

California League of Food Processors (CLFP) and Agricultural Energy Consumers Association (AECA) jointly (CLFP/AECA) filed a protest. They asserted that basing the bill credit on November and December 2015 billed gas throughput does not take into account customer classes with high gas usage during other periods of the year and minimal or no gas usage during the disallowance reference period specified in D.15-04-024 . In particular, gas consumption for industrial food and fiber processors typically peaks during the months of July through September. To be equitable, they argued that bill credit allocation methodology should be modified to reflect such gas consumption patterns.

Olam West Coast, Inc. (Olam), an agricultural processing company, disputed using November and December 2015 billed gas throughput for the bill credit. Because of its operations, the protestant's gas usage is highest during the summer months and relatively low during the bill credit allocation period. As a result, it would receive a lower bill credit than it believed is fair. Olam requests that the Commission reconsider D.15-04-024 and allow the bill credit to be based on its facilities' two highest gas consumption months.

Wonderful Pistachios & Almonds, LLC. (Wonderful) protested using November and December 2015 billed gas throughput for the bill credit as their processing facility is only active during the months of September and October.

Commercial Energy of California (Commercial), a CTA , argued that the bill credit is problematic when consolidated billing is used and the bill credit exceeds the PG&E portion of a CTA customer's bill.¹¹ Under such circumstances, the

¹¹ Consolidated billing is when the utility prepares a single monthly bill for the CTA's customer which includes the CTA's procurement charge and the utility's transportation charge.

customer's February 2016 PG&E bill, as reduced by the bill credit, would be insufficient to completely pay the CTAs for their procurement of the customer's gas. This would create billing and accounting problems for the CTA necessitating the issuance of past due bills to their customers. As a solution, Commercial recommended that the CTA customers receive a check from PG&E in the amount of the bill credit or the utility could issue the bill credit only on the utility's portion of the bill with any outstanding credit amount similarly applied to future bills.

School Project for Utility Rate Reduction (SPURR), a CTA, claimed that in the event that the bill credit exceeds the PG&E charges on a consolidated bill, the CTA customer would not remit enough to cover the amount charged by the CTA to procure the customer's gas. SPURR suggested that PG&E should not proceed with the bill credit until this issue is resolved.

Tiger Natural Gas (Tiger), a gas marketer and CTA, argued that the bill credit is likely to exceed the PG&E charges appearing on its customers' monthly bill if consolidated billing is used. As a preferred solution, Tiger recommended that PG&E allocate the credit payment to the CTA. Alternatively, PG&E could issue the credit as a check to the CTA's customers or limit the amount of the credit to the utility charges on the customer's monthly bills until the credit is exhausted. For dual billed customers, Tiger recommends that PG&E issue the credit as a check rather than as a bill reduction.

United Energy Trading, LLC (UET), a CTA, protested PG&E's Plan because it did not specify how the credit would actually appear on the bills of CTA customers and how PG&E will use the bill credit for determining the delinquency or the payment status of a customer. The CTA noted that PG&E plans to apply the bill credit to a CTA customer's entire consolidated bill including the portion that is due the CTA related to gas procurement. It recommends that the Commission require PG&E to apply the credit only on PG&E's portion of the customer's invoice. UET also said that PG&E did not specify how the credit is to appear on its customer's bills.

IGS Energy (IGS), a CTA, argued that the bill credit is likely to exceed the PG&E charges that its customers are assessed monthly through the consolidated billing

process. In that situation, customers will be confused about the application of the bill credit and it will create accounting difficulties for the company. It recommended that PG&E issue checks for the credit or limit the amount of the credit to the PG&E charges appearing on the consolidated bills.

PG&E replied to the protests of AL 3597-G. In response to the agricultural related entities (CLFP/AECA, OLAM, and Wonderful), PG&E stated that using the November and December gas throughput to allocate the bill credit is required by D. 15-04-024. However, it noted that the Commission could address seasonality issues by basing the bill credit on annual gas consumption for 2015 and provided an illustration of this approach using June 2014 through May 2015 gas throughput. In response to the CTAs, PG&E concurred that the bill credit could exceed the utility's charges on a consolidated bill; however, it estimated that in a substantial number of cases that would not be the case. To resolve the CTA issues, the utility suggested that credits in excess of \$30 could be issued as a check, which it could do after March 2016 depending on when its Plan is approved. PG&E noted that it would file a supplemental AL containing its proposals, which it later did.

Protests and responses to PG&E AL 3597-G-A were submitted by the following entities.

Office of Ratepayer Advocates (ORA) claimed that PG&E's proposal to allocate the bill credit on the gas throughput over a 12 month period does not comply with D.15-04-024, which specified using November through December 2015 billing cycles. It suggested that parties should file a Petition To Modify the decision if such changes are sought.

Indicated Shippers (Indicated) said that the proposed modifications in AL 3597-G-A violate the clear direction provided by the Commission in D.15-04-024 and should be rejected in favor of AL 3597-G. Additionally, the changes should not be allowed because they basically modify D.15-04-024 in violation of various rules in G.O. 96-B. Indicated also noted that D.15-04-024 envisioned that implementation of the bill credit would be ministerial in nature and directed PG&E to file its plan by a Tier 2 AL. If the Commission believes that some accommodation needs to be made for the agricultural related

protestants, only a narrow exception should be made applicable to their situation.

CLFP, AECA and Wonderful jointly supported PG&E's proposed 12 month gas throughput allocation method because it addresses the seasonal gas use variations in food and fiber processing operations. Furthermore, they said that it was consistent with the guidance and direction specified in D.15-04-024 and the goal of basing the bill credit on periods with the highest level of gas throughput.

Northern California Generation Coalition (NCGC) supported allocating the disallowance using an equal-cents-per-therm factor based on customer usage billed from July 2014 through June 2015, as an option PG&E suggested. This would ensure that variable gas usage over the course of a year by customers is accounted for in calculating the amount of the bill credit. It also argued that using an allocation method based on a future 2-month period as D.15-04-024 adopted could dis-incentivize conservation as customers may seek to maximize their gas use over the credit derivation period.

Commercial supported PG&E's proposal to change the allocation methodology for the bill credit and to use checks for the bill credit due CTA customers. It stated that using November and December throughput would unfairly disadvantage customers that have peak usage in other months. Commercial also said that ORA too narrowly construes D.15-04-024 and ignores the primary goal of the Decision, namely that customers should receive an equitable allocation of the disallowance at the soonest date possible. Commercial also asserted that the Decision allowed for some technical changes to the bill credit mechanism in order to ensure that customers receive a timely, equitable share. The CTA also noted there was an error in the master-meter letter included in the AL related to one version of the Plan.

UET claimed that PG&E's proposal to issue checks to CTA customers did not resolve its previously stated concerns in its AL 3597-G protest and that the utility could use that process to have the CTAs pay a portion of the disallowance. It reiterated that PG&E should only apply the bill credit to the utility's charges on the CTA customer's bill. PG&E should also be prohibited from using partial or

foregone payments resulting from the bill credit in its assessment of the delinquency of an account.

SPURR found that PG&E's check writing proposal lacked sufficient detail to assess whether it would be beneficial for CTAs that use Optional CTA Consolidated Billing.¹² It recommended that the Commission should direct PG&E to meet with CTAs using that billing method to determine the best method for disbursing the credit.

TIGER asserted that PG&E's proposed check writing alleviated immediate concerns that it had with the Plan, but other shortcomings it alleged with PG&E's billing system remained unresolved.

IGS found PG&E's check writing and 12-month allocation proposal acceptable.

XOOM (XOOM), a CTA, supported PG&E's proposal to issue checks to the customers of CTAs.

PG&E replied to the protests of Supplemental AL 3597-G-A. In response to the CTAs' protests, PG&E pointed out that some issues raised by CTAs were beyond the scope of this shareholder-funded equitable remedy and that some more global issues related to its billing system are being addressed in various proceedings. Regarding SPURR's concerns, PG&E said that, in conversations it had with the CTA, any customers potentially impacted by the check issuing proposal could be identified and any problems could be resolved. Delaying issuance of the disallowance as SPURR suggested would be unreasonable. PG&E claimed that UET's description of the Plan was inaccurate and that issuing checks to CTA customers would avoid problems associated with the bill credit. PG&E also disputed UET claims that the \$30 check threshold would negatively impact customers with the largest gas usage and indicated that checks written in

¹² Under this billing option, PG&E sends SPURR the applicable transportation charges and SPURR sends the unified bill to its customers. (SPURR PG&E AL 3597-G protest at p. 1.)

that amount would likely be cashed by customers (uncashed checks were said to remain a liability for up to one year). In the event that a check remains uncashed, the utility claimed it would make every reasonable effort to locate the payee for checks that are returned.

DISCUSSION

PG&E is directed to allocate the \$400 million disallowance between core, noncore and wholesale customer classes using their average monthly gas throughput for the December 2015 and January 2016 billing cycles as the allocator.

We had ordered the use of November and December 2015 billing cycle throughput as the allocator for all of PG&E's gas customers in D. 15-04-024. In this resolution we direct PG&E to use the monthly average of the December 2015 and January 2016 billing cycle throughput as the allocator because those months represent a period with high total gas throughput, as we intended in D.15-04-024.¹³

After determining the core, noncore and wholesale customer class share, core and wholesale customers' allocation will be disbursed to those individual customers using their average monthly consumption for the December 2015 and January 2016 billing cycles. That was the approach we adopted in D.15-04-024 and no protestants disputed the use of that methodology for PG&E's core and wholesale customers. However, in response to the AL protests, we will adopt a different allocator for individual noncore customers.

¹³ Our objective in D.15-04-024 was to use the two month period "... with the highest volumetric throughput." D.15-04-024 at p. 88. Using the December and January billing cycles is more consistent with that objective than the November December billing cycle period specified in D.15-04-024. A further reason for substituting January for November is PG&E's explanation that its November billing cycle includes gas consumption that occurs in the non-winter month of October. (see PG&E AL 3597-G, Attachment A, Bill Credit Plan section 5)

After determining the core, noncore and wholesale customer class allocation, PG&E is directed to distribute the noncore allocation to individual noncore customers using their average annual throughput during the billing cycle period of February 2015 through January 2016.

In D. 15-04-024, we had directed PG&E to disburse noncore customers' share of the allocation using average monthly throughput for the November and December 2015 billing cycle period. In comments on PG&E's advice letter, many protestants primarily involved in the agriculture business raised the issue that their consumption in the months of November and December is very low and that the adopted approach will not enable them to get their fair share of the disallowance. We find this argument persuasive and that the D.15-04-024 allocation process for noncore customers should be modified to account for seasonal variations in noncore gas usage. Therefore, instead of using the monthly average of November and December 2015 billed gas throughput adopted in D.15-04-024 to allocate the disallowance to individual noncore customers, we direct PG&E to allocate the noncore and wholesale disallowance based on those customers' average annual throughput during the billing cycles for February 2015 through January 2016.

PG&E states that none of the \$400 disallowance would be given to their inter-departmental usage. ¹⁴In addition, PG&E is prohibited from receiving any portion of the disallowance including for gas used by the electric generation facilities the utility owns.

PG&E shall revise the letter for its master meter customers that it submitted in the ALs so that it is consistent with the allocation procedure adopted in this Resolution. The master meter letter is to be revised in accordance with Ordering Paragraph 5 of D.15-04-024.

PG&E shall issue checks for the apportioned disallowance to its noncore customers and the customers of CTAs, if the amount is over \$30.

¹⁴ See PG&E AL 3597, Attachment 1A, Bill Credit Plan section 5. d).

PG&E and the CTA protestants explained that billing problems could arise if the bill credit is used for noncore customers or the customers of CTAs. We find that the procedure adopted in this resolution will alleviate those billing problems and will provide a more practical method for disbursing the \$400 million disallowance that was our objective in D.15-04-024.

PG&E is responsible to ensure that each eligible CTA customer receives their proper share of the disallowance. A CTA shall not receive any portion of the disallowance that is supposed to be for a CTA customer. Given the complications of consolidated billing, we will relax the requirement that a “one-time” bill credit be used for CTA customers if it is necessary that multiple bills are involved for the CTA customer to receive their full refund amount. In the event that problems arise, we require PG&E to promptly assist the CTA if the utility’s involvement is necessary to resolve a defined problem with a customer’s bill that is specific to the utility’s implementation of the \$400 million disallowance disbursement. All such problems are to be rectified in accordance with D.15-04-024, as clarified by this Resolution.

It is possible that some customers’ checks may remain uncashed and PG&E will be left with some undisbursed amount of the refund. If some customers’ checks remain uncashed one year after issuance, the undisbursed funds shall escheat to the state pursuant to California Code of Civil Procedure, Section 1519.5.

A check issued by PG&E in connection with the \$400 million disallowance may remain uncashed by a customer. PG&E stated that an uncashed check remains a liability for the utility for a period lasting one year.¹⁵ PG&E initially did not specify how the uncashed checks would be accounted for thereafter, but later explained that California law addresses the disposition of such checks. In its comments of January 12, 2016, PG&E states, “[s]pecifically, the [California Code of Civil Procedure] provides that ‘...any sums held by a business association that

¹⁵ PG&E Reply to Protests of Supplemental AL 3597-G-A at p. 3.

have been ordered to be refunded by a court or an administrative agency including, but not limited to, the Public Utilities Commission, which have remain unclaimed by the owner for more than one year after becoming payable in accordance with the final determination or order,...escheats to this state' (CCP Section 1519.5)." While we are concerned that the full \$400 million may not be distributed to the utility's gas customers, we are bound by state law. Thus, amounts that remain unclaimed by the customer for more than a year will escheat to the state. PG&E is to report to the Commission the total amount that is provided to the State pursuant to the statute.

It is procedurally appropriate to make some changes in this resolution to the disallowance disbursement approach adopted in D.15-04-024 to ensure that customers receive their fair share of the refund consistent with the intent of D. 15-04-024.

Some protestants argued that PG&E and others should file a Petition For Modification (PFM) to pursue their allocation proposals or to allow disbursement of the disallowance by any means other than a bill credit. ORA and Indicated claimed that the allocation and check writing procedures PG&E proposed in AL 3597-G-A would improperly modify D.15-04-024 and that a PFM is the correct procedural vehicle to seek such revisions.

Their argument is that G.O. 96-B prohibits modifying a Commission decision through an AL. We find that the modifications and clarifications to D.15-04-024 adopted through this resolution are consistent with Rule 1.3 of G.O. 96-B.¹⁶ As Indicated noted, there are various rules in G.O. 96-B which prohibit the use of an AL to modify a decision. Pertinent excerpts of the G.O. 96-B rules Indicated cited are as follows:

Rule 5.1 of G.O. 96-B states, in part:

¹⁶ G.O. 96-B Rule 1.3 states, in part: "The General Rules and Industry Rules shall be liberally construed to secure just, speedy, and inexpensive handling of informal matters, as set forth in this General Order."

“The primary use to the advice letter process is to review a utility’s request to change its tariffs in a manner previously authorized by statute or Commission order, to conform the tariffs to the requirements of a statute or Commission order, or to get Commission authorization to deviate from its tariffs. A utility may also request relief by means of an advice letter where the utility:

- (1) has been authorized or required, by statute, by this General Order, or by other Commission order, to seek the requested relief by means of an advice letter; ...”*
(emphasis added)

Rule 5.2 of G.O. 96-B states, in part:

“ A utility must file an application, application for rehearing, or petition for modification, as appropriate, in the following circumstances:

- (1) The utility requests modification of a decision issued in a formal proceeding or otherwise seeks relief that the Commission can grant only after holding an evidentiary hearing, or by decision rendered in a formal proceeding;*
- (2) The utility seeks Commission approval of a proposed action that the utility has not been authorized, by statute, by this General Order, or by other Commission order, to seek by advice letter; “* (emphasis added)

Rule 7.4.2(2), which specifies the grounds on which an AL can be protested, states:

“(2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;” (emphasis added)

Commercial had opposing views and asserted that language in D.15-04-024 provided the Commission with sufficient flexibility to make technical changes to the bill credit process without the need for a PFM. It opined that ORA too narrowly construes the decision and ignores the Commission’s primary goal that PG&E’s gas customers receive an equitable share of the disallowance in a timely

manner. The protestant interpreted parsed passages from D.15-04-024 indicating that minor changes to the procedures for disbursing the \$400 million disallowance were permitted and it speculated that the fact that PG&E was directed to file an AL to implement the bill credit implied that the utility had the discretion to make some revisions. PG&E also thought that a resolution was appropriate for making any necessary changes to the bill credit process.¹⁷

In this instance, modifications to D.15-04-024 are being made to clarify the procedures to ensure that the \$400 million disallowance is implemented through “a simple and clear methodology that can be implemented as soon as possible.”¹⁸ Further, the Decision specifically directed PG&E to use “a Tier 2 Advice Letter process, as we envision that the implementation of the bill credit should be ministerial.” Therefore the clarifying changes made to the methodology adopted in D.15-04-024 are permissible under Rule 1.3 of G.O. 96-B.

Consistent with Rule 5.1 of G.O. 96-B, PG&E’s AL seeks to implement the \$400 million disallowance adopted in D.15-04-024 in a manner that conforms to the requirement that all gas customers receive a fair portion of this disallowance. The clarifications set forth in this resolution are consistent with the intent of D.15-04-024 and offer the most efficient and speedy means to do so. These clarifications adjust the procedures adopted in that decision so we can use a more equitable and practical way to allocate and distribute the \$400 million disallowance on a timely basis.

With this resolution, we have slightly modified and clarified the allocation methodology of the \$400 million disallowance ordered in D.15-04-024 as well as the procedure for distributing it to certain customers in order to better meet that decision’s objectives. The \$400 million disallowance is unaffected by our clarifying changes in this resolution and our goal articulated in D.15-04-024 to use the most equitable and practical method to distribute the disallowance

¹⁷ PG&E Reply to AL 3597-G-A protests at p. 5.

¹⁸ D.15-04-024 at 224-225.

remains in place. The allocation change concerns aligning the process to better match PG&E's noncore customers' gas usage patterns so that all of the utility's gas customers will receive a fair portion of the disallowance. Further, as Commercial indicated, providing for a bill credit in the form of a check under the specified circumstances is not a major policy change, but is a technical adjustment to the D.15-04-024 adopted procedures that will involve only a limited number of customers with the benefit of avoiding various billing complications.

The revisions in this resolution to the disbursement method adopted in D.15-04-024 are consistent with our policy expressed in that decision:

"We prefer a simple and clear methodology that can be implemented as soon as possible. Accordingly, we are requiring the use of a Tier 2 Advice Letter process, as we envision that the implementation of the bill credit should be ministerial." (D.15-04-024 at pp.224-5.) (emphasis added)

In sum, the clarifications to the procedures adopted herein are neither complex nor burdensome and can be considered ministerial in the manner that we envisioned in D.15-04-024. Most importantly, they will result in all of PG&E's gas customers receiving a fair portion of the disallowance on a one-time basis and in a timely manner, which is consistent with the intent of D.15-04-024. Furthermore, the variety of the comments on the ALs and the ED data request has allowed us to analyze the issues before us in depth and to render a more fully informed decision on the disallowance disbursement. In that respect, we concur with Commercial that having to re-examine these issues again through a PFM would be time consuming, unproductive, and frustrate the goal we expressed in D.15-04-024 that the disposition of the \$400 million disallowance be done expeditiously.¹⁹

The draft of this resolution was served on all parties in I.12-01-007, I.11-02-016 and I.11-11-009 in addition to those entities that protested or commented on ALs

¹⁹ Commercial AL 3597-G-A protest at p. 4.

3597-G and 3597-G-A. Therefore, all parties in the OIIs have been afforded notice and an opportunity to comment on the draft resolution, consistent with Section 1708 of the P.U. Code, which states:

“The commission may, at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision.”

Therefore, we are waiving the requirement in Section 5.2 of G.O. 96-B that a PFM be filed to consider the issues that have been decided upon in this Resolution.

PG&E shall file a Tier 1 Supplemental AL to AL 3597-G-A containing a revised Plan that includes the requirements that are adopted in this Resolution. The Supplemental AL shall replace AL 3597-G and AL 3597-G-A in their entirety.

PG&E shall file a Tier 1 Supplemental AL to 3597-G-A with a revised Plan containing the following:

1) The \$400 million disallowance will be allocated to PG&E’s core, noncore and wholesale customer classes based on the proportion of their monthly average gas throughput associated with their December 2015 and January 2016 billing cycles. The amount of the disallowance disbursed for each individual core and wholesale customer will be based on their average gas throughput for the December 2015 and January 2016 billing cycles. The amount of the disallowance for individual noncore customers will be based on their average gas throughput for the billing cycles of February 2015 through January 2016. PG&E shall revise the eligibility requirements for receiving a share of the disallowance consistent with this allocation procedure as well as the required letter for master-meter customers.

2) PG&E shall issue a check to CTA customers if the amount of the customer’s share of the disallowance is \$30 or more.

3) The checks and bill credits are to be issued no later than PG&E's June 2016 billing cycle.

4) PG&E shall promptly assist CTAs, if necessary, to resolve any defined problem with a customer's bill that is specific to the utility's implementation of the bill credit in a manner that is consistent with D.15-04-024, as modified and clarified by this Resolution.

5) PG&E shall issue a check to noncore customers, rather than apply a one-time bill credit.

6) PG&E is responsible to ensure that each eligible CTA customer receives their proper share of the disallowance. A CTA shall not receive any portion of the disallowance that is supposed to be for a CTA customer. Disbursing the full amount of the refund to a CTA customer may involve issuing credits on more than one bill.

7) The amount of uncashed checks shall escheat to the State. PG&E shall report to the Commission the total amount of the uncashed checks that will escheat to the State.

8) PG&E is prohibited from receiving any portion of the disallowance including gas usage for the electric generation facilities owned by the utility.

All other aspects of PG&E's Bill Credit Plan (Plan) filed in AL 3597-G-A Attachment 1-B not specifically addressed in this Resolution are approved and are to be incorporated in the revised Plan to be filed in Supplemental AL 3597-G-B.

PG&E shall file the Tier 1 Supplemental AL 3597-G-B within 10 days of the effective date of this Resolution. The Supplemental AL will have a 10 day protest period and 5 day reply period and shall go into effect on the date of ED approval. It shall be served on the protestants of AL 3597-G and Supplemental AL 3597-G-A and I.12-01-007, I.11-02-016, I.11-11-009, A.13-12-012, A.12-11-009/I.13-03-007 and R.11-02-019.

PG&E shall issue a report to the Director of the Commission's Energy Division showing the results of its implementation of the approved Bill Credit Plan. The report is to be issued no later than 60 days after the bill credits and checks have been issued.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

On January 12, 2016, PG&E, Commercial, NCGC, Dynegy, Inc. (Dynegy), and the California Cogeneration Council (CCC) submitted comments on the Draft Resolution, as summarized here.

PG&E recommended that the date for issuing the checks and bill credits be extended from March 2016 to no later than the June 2016 billing cycle. The additional time was said to be necessary to make computer programming modifications to accomplish the task. PG&E also requested eliminating the requirement that the bill credit amount be applied solely to the utility's charges on a CTA customer's bill. Instead, it would institute a procedure to address situations where a CTA customer has a net credit. Furthermore, PG&E noted that in cases where a bill credit problem occurs, it would work with the CTA to resolve the matter, as the Resolution mandates. Lastly, PG&E stated that crediting the amount of any uncashed checks to customers through various balancing accounts would violate California Code of Civil Procedure (CCP) Section 1519.5, which provides that any such sums must escheat to the State.

Commercial supported the Draft Resolution.

NCGC endorsed the Draft Resolution's allocation of the disallowance for each noncore customer using a 12 month period of gas throughput. However, it asserted that it would be unlawful if the intent of the Draft Resolution was to use the gas consumed in January 2016, as opposed to the gas usage associated with the January 2016 billing cycle, to allocate the disallowance for the customer classes, as such a change was not authorized by D.15-04-024.

Dynegy asserted that the Energy Division was not authorized to change D.15-04-024 through the Draft Resolution. It proposed revising the Draft Resolution to use the allocation procedures specified in D.15-04-024. Dynegy also recommended that PG&E should be prohibited from receiving any portion of the \$400 million disallowance in connection with gas transportation services that it obtains in connection with a tolling agreement or similar arrangement.

CCC observed that using December 2015 and January 2016 gas throughput as an allocator would favor PG&E's core customers and that it would be more equitable to use gas throughput over a 12 month period as the allocator for all customer classes. It also noted that the Draft Resolution was ambiguous as to whether the gas consumption corresponding to December 2015 and January 2016 billing cycle would be used as an allocator or the gas consumed by customers over that two month period. CCC also recommended that PG&E should issue a report showing the results of its implementation of the \$400 million disallowance dispersal.

The Draft Resolution has been revised in consideration of the comments. It was clarified to state that the gas usage associated with the December 2015 and January 2016 billing cycles are to be used as the allocator for the \$400 million disallowance to PG&E's core, noncore and wholesale customer classes as well as for each individual core and wholesale customer and that the February 2015 through January 2016 billing cycles are to be used as the allocator for the individual noncore customers. Additionally, the Draft Resolution has been changed to specify that PG&E is responsible to ensure that each eligible CTA customer receives their proper share of the disallowance and that issuing a CTA customer the full amount of their bill credit may involve multiple bills. To provide PG&E with sufficient implementation time, the deadline for disbursing the \$400 million disallowance has been extended to no later than the June 2016 billing cycle. We are in agreement that uncashed checks are to escheat to the State. PG&E will also be directed to issue a report on its implementation of the

approved Bill Credit Plan. Dynegy's issue was adequately addressed in the Draft Resolution.

FINDINGS

1. D.15-04-024 required PG&E to issue one-time bill credits totaling \$400 million to all its gas customers.
2. PG&E noncore customers engaged in the agricultural business might use less gas during the months of November and December than at other times during the year.
3. It is probable that some PG&E noncore customers that are involved in non-agricultural related pursuits might use less gas during the months of November and December.
4. Noncore customers that use little or no gas during the winter months of December and January will receive a portion of the disallowance if the allocation methodology is based on a 12 month period of gas consumption.
5. PG&E's November billing cycle includes gas consumed in October, which is not considered a high gas usage winter month.
6. Allocating the \$400 million disallowance to the utility's core customers based on December 2015 and January 2016 billing cycle gas throughput is reasonable and meets the Commission's intent in D.15-04-024.
7. Using a bill credit to provide the apportioned amount to noncore customers or some CTA customers might cause billing problems when the amount exceeds PG&E's charges on a consolidated bill.
8. Issuing checks in lieu of bill credits that are more than \$30 for CTA customers is reasonable in order to avoid billing problems.
9. Due to the complexities of the billing arrangements CTAs have with PG&E, billing problems could arise in the utility's administration of the bill credit.
10. Issuing checks in lieu of bill credits for noncore customers is reasonable.
11. It might not be possible to provide a CTA customer using consolidated billing with the entire amount of their bill credit in a one-time bill credit.
12. In the event that PG&E issues a check that remains uncashed after one year, the funds represented by that check will escheat to the state of California.
13. The modifications and clarifications to the methodology for allocating the \$400 million disallowance to PG&E's gas customers adopted in this Resolution are consistent with Rule 5.1 of General Order 96-B and authorized pursuant to Rule 1.3 of General Order 96-B.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas and Electric Company (PG&E) shall file Tier 1 Supplemental Advice Letter (AL) - AL 3597-G-B with a revised Bill Credit Plan that contains the procedures adopted herein. The Supplemental AL shall be filed not later than 10 days after the effective date of this Resolution and shall go into effect on the date of Energy Division approval. The Supplemental AL shall have a 10 day protest period and shall replace AL 3597-G and AL 3597-G-A in their entirety.
2. PG&E shall allocate the \$400 million disallowance to its core, noncore and wholesale customer classes according to the proportion of their gas consumption for the December 2015 and January 2016 billing cycles. The amount of the disallowance disbursed for individual core and wholesale customers will be based on their average monthly consumption for the December 2015 and January 2016 billing cycles. The amount of the disallowance for individual noncore customers will be based on their average gas consumption for the period of their February 2015 through January 2016 billing cycles.
3. PG&E shall remit the portion of the \$400 million disallowance as determined under Ordering Paragraph #2 to its gas customers in the following manner:
 - a.) Noncore customers are to receive a check.
 - b.) Customers of Core Transport Agents are to receive a check if the allocated amount of the disallowance to those customers is more than \$30.
 - c.) All other gas customers will be provided a bill credit.
 - d.) PG&E is prohibited from receiving any portion of the disallowance including gas usage for the electric generation facilities owned by the utility.
 - e.) The checks and bill credits are to be issued no later than the period of PG&E's June 2016 billing cycle.

4. PG&E shall promptly provide all necessary assistance to Core Transport Agents (CTA) to resolve any problems that the utility is either fully or partially responsible for that has resulted in a CTA customer failing to receive the proper amount of the disallowance. If a CTA requests such assistance from PG&E, it must be to address a specific, defined problem with a CTA customer's account. Any such problems are to be rectified in a manner consistent with D.15-04-024, as modified and clarified by this Resolution.
5. PG&E is responsible to ensure that each eligible CTA customer receives their proper share of the \$400 million disallowance.
6. Sums from checks uncashed a year after their issuance shall escheat to the state of California and the amount reported to the Commission.
7. All other aspects of PG&E's Bill Credit Plan (Plan) filed in AL 3597-G-A Attachment 1-B not addressed or superseded in this Resolution are approved and are to be incorporated in the revised Plan to be filed in the supplemental AL specified in Ordering Paragraph #1.
8. PG&E shall issue a report to the Director of the Commission's Energy Division showing the results of its implementation of the approved Bill Credit Plan. The report is to be issued no later than 60 days after the bill credits and checks have been issued.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on January 28, 2016; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

